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Plaintiff,

V.

BOB RILEY, et al.,

Defendants.

CASE NO. 2:06-cv-884-MEF

**AMENDED MOTION TO DISMISS OF BLOCH AND DEBROW**

COMES NOW John Bloch, and Joe Debrow, sued in both their official and individual capacities, and by and through the undersigned counsel, moves this Honorable Court pursuant to Rule 12(b) of the Federal Rules of Civil Procedure to dismiss all the claims against them based on the following amended grounds:

1. The Plaintiffs claims are barred by the statute of limitations;
2. The Complaint fails to state a claim against these Defendants upon which relief can be granted;
3. The Plaintiffs federal law theories are barred by the immunity afforded by the Eleventh Amendment to the United States Constitution;
4. The Plaintiffs state law theories are barred by the sovereign immunity under the Constitution of the State of Alabama;
5. The Plaintiffs federal law claims against these Defendants in their individual capacities are barred by qualified immunity;
6. The Plaintiffs state law claims against these Defendants in their individual capacities are barred by State-agent immunity;

7. The Plaintiffs claims for declaratory and injunctive relief are nonjusticiable; and

8. The Plaintiffs claim for damages under the state competitive bid law is prohibited as a matter of law.

(Defendants' brief in support of this motion will be filed contemporaneously herewith.)

WHEREFORE, the above-cited grounds considered, Defendants Bloch and Debrow request this Honorable Court to enter a judgment in their favor dismissing all the Plaintiffs claims against them.

Done this 21st day of December 2006.

Respectfully submitted,

**s/Robert J. Russell**

Robert J. Russell

Bar ID Number: 4372-e60r

Assistant Attorney General and

General Counsel for the Alabama

Department of Agriculture & Industries

Attorney for Defendants Bloch & Debrow

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of this filing to all counsel of record.

I hereby certify that I have mailed a true and correct copy by United States Postal Service the foregoing document to the following individual:

Curtis Duncan  
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**s/Robert J. Russell**  
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